

ASSEMBLY BILL

No. 18

Introduced by Assembly Member Knight

December 1, 2008

An act to amend Section 36512 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 18, as introduced, Knight. Local government: city councils.

Existing law requires a city council to, within 30 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified.

This bill would authorize the city council to leave a seat on the city council vacant for up to one year or until the next general election, whichever comes first, if the remaining city council members cannot agree upon an appropriate appointee and the remaining city council members can still form a quorum, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that the
- 2 administration of a special election to fill a vacant position on a
- 3 city council often results in a large and sometimes unnecessary
- 4 financial burden on the citizens of the affected city.
- 5 SEC. 2. Section 36512 of the Government Code is amended
- 6 to read:

1 36512. (a) If a vacancy occurs in an appointive office provided
2 for in this chapter, the council shall fill the vacancy by
3 appointment. A person appointed to fill a vacancy holds office for
4 the unexpired term of the former incumbent.

5 (b) (1) If a vacancy occurs in an elective office provided for in
6 this chapter, the council shall, within 30 days from the
7 commencement of the vacancy, either fill the vacancy by
8 appointment or call a special election to fill the vacancy. The
9 special election shall be held on the next regularly established
10 election date not less than 114 days from the call of the special
11 election. A person appointed or elected to fill a vacancy holds
12 office for the unexpired term of the former incumbent.

13 (2) *Notwithstanding paragraph (1), if a seat on the city council*
14 *becomes vacant and the remaining city council members are unable*
15 *to reach a consensus on an appropriate appointee, the city council*
16 *may leave that seat unfilled until either the next general election*
17 *or for up to one year from the commencement of the vacancy,*
18 *whichever occurs first, so long as a quorum can be reached without*
19 *filling the vacant seat.*

20 (c) Notwithstanding subdivision (b) and Section 34902, a city
21 may enact an ordinance ~~which~~ *that does any of the following:*

22 (1) Requires that a special election be called immediately to fill
23 every city council vacancy and the office of mayor designated
24 pursuant to Section 34902. The ordinance shall provide that the
25 special election shall be held on the next regularly established
26 election date not less than 114 days from the call of the special
27 election.

28 (2) Requires that a special election be held to fill a city council
29 vacancy and the office of mayor designated pursuant to Section
30 34902 when petitions bearing a specified number of verified
31 signatures are filed. The ordinance shall provide that the special
32 election shall be held on the next regularly established election
33 date not less than 114 days from the filing of the petition. A
34 governing body ~~which~~ *that* has enacted such an ordinance may
35 also call a special election pursuant to subdivision (b) without
36 waiting for the filing of a petition.

37 (3) Provides that a person appointed to fill a vacancy on the city
38 council holds office only until the date of a special election which
39 shall immediately be called to fill the remainder of the term. The
40 special election may be held on the date of the next regularly

1 established election or regularly scheduled municipal election to
2 be held throughout the city not less than 114 days from the call of
3 the special election.

4 (d) (1) Notwithstanding subdivision (b) and Section 34902, an
5 appointment shall not be made to fill a vacancy on a city council
6 if the appointment would result in a majority of the members
7 serving on the council having been appointed. The vacancy shall
8 be filled in the manner provided by this subdivision.

9 (2) The city council may call an election to fill the vacancy, to
10 be held on the next regularly established election date not less than
11 114 days after the call.

12 (3) If the city council does not call an election pursuant to
13 paragraph (2), the vacancy shall be filled at the next regularly
14 established election date.